

BEFORE THE RAJASTHAN ELECTRICITY REGULATORY COMMISSION

Submission in petition 2069/2022

Date: 25th Jan 2023

IN THE MATTER OF

Petition submitted by Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUN) for ARR approval for 2023-24 and true up for 2021-2022

SUBMISSION BY PRAYAS (ENERGY GROUP), PUNE

Operations of the generating company in Rajasthan have faced significant challenges, especially in the recent past. While some of these challenges are unique to the state, there are other instances where it can draw from the experience of other states. This submission is informed by our engagement in regulatory process in multiple states over the last two decades. Our broad suggestions, aimed to ensure clarity and transparency in operation and improve stakeholder participation, are listed below:

1. Issues with data formats:

Currently, the petition submitted includes a compilation of information for each of the generating stations of RVUN for approval of ARR for FY24. It does not submit prayers for approval of a company level aggregate for revenue requirement. Additionally, while the submission includes tables capturing operational parameters and projections for each station, such data is not available in an excel format. This makes it challenging to review the submission effectively across stations and parameters.

In the interest of transparency and better scrutiny from stakeholders, the Commission should direct the generating company to submit detailed station-wise information as excel files, in the format stipulated by RERC in its order on forms for furnishing ARR and tariff, and truing up proposal for Generating Companies, Transmission Licensee and SLDC dated 30th May 2019. The Commission should also direct RVUN to submit company-wide aggregate revenue requirements with a break-up into categories such as capitalization, interest on loans, interest on working capital and fuel-related expenses. Additionally, in the interest of early identification of errors and lapses, the Commission should require that an effective technical validation session with wide stakeholder consultation, including consumer groups, is carried out for all such tariff-related petitions.

2. Tariff determination for control period:

At a time of fast paced changes in the sector and growing uncertainty, the adoption of a multi-year tariff (MYT) determination process is crucial toward providing regulatory certainty to all stakeholders while ensuring improved operational efficiency and planning processes. The option for doing so is provided in Clause 5 (4) of RERC's Tariff Regulations as per the 2020 amendment:

"(4) "The Licensee or SLDC shall have an option for filing the Petition for Multi Year Tariff determination for the remaining period of the Control Period at the time of filing ARR/Tariff Petition

for any year of the Control Period after notification of these Regulations. If the Licensee or SLDC has opted for Multi Year Tariff determination, it shall submit the forecast of Aggregate Revenue Requirement, expected revenue from existing tariffs and proposed tariff for each remaining year of the Control Period and the Commission shall determine the ARR & tariff for each year of the Control Period:

Provided that if the Licensee or SLDC has opted for Multi Year Tariff Determination, it shall submit the Petition for trueing up of ARR for the previous year during each year of the Control Period and may submit the Petition to re-determine the ARR and Tariff for ensuing Year based on trueing up of previous year.

Provided further that the Managing Director of concerned company opting for Multi Year tariff determination shall be responsible for timely filing True Up petitions. In case, the Licensee or SLDC does not file True up petition of previous financial year within the time limit specified in these Regulations, they will not be entitled to charge the increased tariff under multi year tariff regime and will also be liable to such penalty as the Commission may determine.

Provided also that any excess earning shall be suitably adjusted in next true-up petitions. If it is found that licensee or SLDC have been earning excessive profits or in case of non-filing of True up petitions, the Commission may issue Suo-Motu order to revise the tariff suitably."

In accordance to the above, the generating company can opt for an annual or a multi-year tariff (MYT) determination process. However, as per the first proviso of this clause, even on opting for a MYT process, the generating company must still submit annual petitions toward revising tariffs for each year of the control period. This mixed approach defeats the purpose of a MYT process, which would ensure fixed tariff and performance trajectories for a five year term, whereas the considered approach allows for year on year deviations in cost determination and dilutes accountability of the generator.

Instead, we submit that the Commission require a robust MYT process over a five year period, which includes operation and tariff projections for the entire control period. This, along with annual true-ups and a mid-term review, to account for any requisite mid-course corrections, will reduce process iterations for the utility and regulatory burden for the Commission, and enable improved operations.

3. Need for Fuel Utilisation Plan:

It is good to note that the generating company has recognised the temporary nature of the shortage and the required coal imports, and has not projected any imports for FY24. However, the shortage itself could have been pre-empted and planned for with the preparation of a fuel utilisation plan for the control period.

The aim of the fuel utilisation plan, in addition to ensuring optimum fuel utilisation (through allocation based on merit order/variable cost) and cost savings, is to also plan for an alternate arrangement for meeting shortage of fuel. Such planning should be consistent with the likely demand as projected by the Rajasthan DISCOMs, and will enable RVUN to be better able to plan for its fuel procurement at least cost. The plan should also include alternatives for fuel

procurement in case of sudden increase in demand or shortage of expected fuel supply – for example, prioritising e-auction coal over imports, as they are a cheaper alternative.

The Commission should require RVUN to prepare a comprehensive, station-wise fuel utilisation plan for the control period. A suggested format for the same is attached as Annexure I. The Commission should also require the generating company to publish on their website monthly data on actual station wise performance of fuel utilisation with justification of deviations from the fuel utilisation plan submitted.

4. Need for rational projection of generation:

As per the petition, generation from RVUN's coal-based thermal power plants is projected to increase at 43% from FY22 to FY23 and at 15% from FY23 to FY24. Despite lower PLF's noted in FY22, RVUN has projected higher PLF's in FY23 and normative PLF's in FY24. This steep increase in generation is not justified by any data or analysis, and leads to unrealistically high coal and revenue requirement.

We submit that the Commission should disallow the unrealistically high claimed availability, PLF, and generation projected by RVUN, and direct RVUN to adopt realistic and analysis based projections in all its future submissions.

5. Dues from distribution companies

Dues from distribution companies significantly impact operations of the generating company, they lead to higher working capital borrowings, resulting in higher costs, and perhaps inability to pay coal companies, leading to inadequate coal supply. This is even more grave considering the strict 48 month timeline provided under Clause (5) of the Late Payment Surcharge Rules notified by the MoP in June 2022 for liquidation of arrears. Clause 6(3) of the Rules states that,

"(3) The supply of power shall only be made if an adequate payment security mechanism is maintained or in the absence thereof, advance payment is made:

Provided that in case the generating company supplies power without the payment security mechanism or without advance payment, it shall lose the right to collect the late payment surcharge from the distribution licensee:

Provided further that in case of non-payment of outstanding dues by the default trigger date, the obligation of the generating company to supply power shall be reduced to Seventy five per cent of the contracted power to distribution licensee and balance Twenty five per cent of contracted power may be sold by the generating company through the Power Exchanges.

Provided also that if the distribution licensee does not establish payment security mechanism or continues to default in payment of outstanding dues for a period of thirty days then the generating company shall be entitled to sell 100 per. cent of the contracted power through Power Exchanges."
[Emphasis added]

Therefore, if RVUN does not take action to recover its dues, it may perhaps even lose its claim on such dues. Given the likely serious financial impact, the Commission should direct RVUN to publish its schedule of dues and the impact of such dues on the company's working capital.

Additionally, the generating company should be required to provide an action plan for recovery of dues and compliance with the rules.

6. Rethinking RVUN's business model

Given the impact of capacity addition on all stakeholders in the sector, MSPGCL should clearly report any capacity in the pipeline, including likely commissioning dates and project status. This should be reported for all new projects, whether conventional or non-conventional.

Currently, RVUN's generation fleet consists of coal, hydro and gas sources, and is dominated by coal-based stations. Driven by changing economics, favourable policies and environmental concerns, the penetration of renewables in the generation mix is steadily increasing and the role of coal-based generation is likely to gradually reduce. Other big generating companies, such as NTPC have started to diversify their portfolio by planning to install significant renewable capacity. RVUN, being the state generating company, should make public its long term plans in this regard. Given the growing role of renewables and toward ensuring continuing relevance in a changing scenario, RVUN should urgently consider revisiting its business model to include cleaner technologies such as renewables and storage into its mix.

7. Directions regarding GCV considerations

The Commission, in its order dated 23 June 2022, directed the generating company to '*submit the GCV of coal on as received basis certified by the CIMFR and shall also get certified the calculation of monthly weighted average data of GCV of coal as received basis by CIMFR*'. RVUN is still in process '*to peruse with the authority of CIMFR*'. Coal quality has significant impact on the operations and cost of the generating company, and must hence be reported regularly and transparently. Moreover, since coal is billed based on the GCV at loading point, it is important to track slippages in coal quality between loading and unloading to increase generator accountability.

As per, Para 7 of CIL's model Fuel Supply Agreement (FSA):

"7. Transfer of Title to Goods

Once delivery of coal have been effected at the Delivery Point by the Seller, the property/title and risk of Coal so delivered shall stand transferred to the Purchaser in terms of this Agreement. Thereafter the Seller shall in no way be responsible or liable for the security or safeguard of the Coal so transferred. The Seller shall have no liability, including towards increased freight or transportation costs, as regards missing/diversion of wagons/rakes or road transport en-route, for whatever causes, by Railways, or road transporter or any other agency." **[Emphasis added]**

The FSA also has a provision (Clause 4.7.3 (ii)(d)) for dispute resolution between the coal company and generator, in case of disputes regarding coal quality at loading point as determined by a third party sampling agency such as CIMFR.

Given this, the generator has contractual mechanisms to ensure that the coal quality as billed matches the expected quality. Moreover, the coal becomes the generating company's property at the loading/delivery point and all the risks thereafter are transferred to it. Thus, it is the

generating company's responsibility to ensure that no slippages in coal quality occur and the as-received coal quality is close to the as-billed coal quality. In the case of captive coal mines, given that the mine itself belongs to the generator, ensuring no slippages in coal quality is also the responsibility of the generator.

In light of this, we request that

- The Commission should require that RVUN track and publish the GCV of coal on both as billed and as received basis. This can be made part of the data formats to be submitted by RVUN.
- The Commission should only allow limited loss in GCV between loading and unloading points, in order to increase generator accountability.
- The Commission should consider amending Regulation 51 (2), which currently considers GCV on as received value less 85 kCal/kg or on as fired value, whichever is higher.

Since consumer tariff is based on the cost of fuel on as billed basis, the Commission should ensure prudence of coal cost by ensuring that the generator fulfils its responsibility and controls losses on account of grade slippages between GCV as billed and as received.

8. We request the Commission to accept this submission on record and to allow us to make additional submission in this matter, if any. We further request the Commission to allow us to make an oral submission during the public hearing on this matter.

Maria Chirayil and Ashok Sreenivas
Prayas (Energy Group), Pune

Place: Pune

Date: 25th January 2023
